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SUBJECT: UKRAINE IPR: GOU TRYING TO IMPROVE HOLOGRAM
STICKER PROGRAM

REF: 2005 KIEV 4872

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[1](#)1. (SBU) Summary: The European Commission hosted an IPR roundtable on March 5 with participation from the GOU and rights holders to discuss the hologram sticker program for optical discs. Industry reps laid out their concerns regarding the technical design of the hologram sticker, the process of issuance, and enforcement. The GOU described plans to improve the technical design within a few months, agreed to make more information publicly available to increase transparency in issuance, and promised to step up investigations of counterfeit stickers. Post expects these practical steps to improve the hologram sticker program, and does not believe that elimination of the program is warranted. End Summary.

[1](#)2. (U) Econoff participated in a March 5 roundtable on intellectual property rights (IPR) hosted by the European Commission. The first part of the roundtable focused on the GOU's hologram sticker program, which is meant to combat optical disk piracy but has long been an area of contention with industry (reftel). The second part focused on public performance piracy (to be reported septel). The event was virtually identical to meetings of the U.S.-Ukraine Enforcement Cooperation Group, as it brought together representatives of the GOU and industry to review IPR enforcement issues.

[1](#)3. (U) The following is a list of key participants:

GOU

Valentin Chebotaryov	- Deputy Chairman, State Department of Intellectual Property (SDIP)
Serhiy Lebid	- Deputy Head of Economic Crimes Department, Ministry of Interior
Oleksiy Gashchytskyy	- Head of IPR Division, Customs Service
Vadim Vnukov	- Security Service of Ukraine
Georgiy Beilin	- Specialized Enterprise "Holographia"
Oleg Andruschakevych	- Deputy Director, State Enterprise "Intelzahyst"

Industry

Alexander Kotlyarevsky - Deputy Regional Coordinator for
CIS, IFPI
Ignat Berezhny - Director, Ukrainian Association of
the Music Industry
Oleg Dolinsky - Managing Director, Comp Music (EMI
Licensee)
Andriy Dakhovskiy - President, Ukrainian Records
(Universal Licensee)
Alexander Pakharenko - Partner, Pakharenko and Partners
Law Firm (local counsel for
Electronic Arts)

¶4. (U) Berezhny delivered a detailed presentation, coordinated with local music industry reps and IFPI, outlining industry's problems with the hologram program. Industry complaints fell under three general topics -- technical elements of the stickers, the issuance process, and enforcement.

Technical Elements of the Hologram Sticker

¶5. (U) On the technical side, Berezhny said that pirates were able to wash off the artist/album name from the first layer of legitimate stickers in order to reprint and attach them to pirated products. He also argued that forged stickers were becoming more widespread, and Dolinsky presented a pirated CD of well-known Ukrainian singer Ruslana bearing a high-quality counterfeit hologram sticker. Chebotaryov recognized that technical improvements to the sticker were necessary and said the GOU intended to introduce a new design within a matter of months. The new design would stop the problem of washing

off the first layer, said Chebotaryov. Beilin said that "Holographia," which designs and manufactures the hologram stickers, was also planning to roll out an easy-to-use, handheld device to aid law enforcement in detecting if a sticker was counterfeit. Lebid praised the planned improvements to the sticker design, but questioned whether the GOU would be able to procure enough of the detection devices and properly train law enforcement officials throughout the country on how to use the device.

Issuance Process

¶6. (U) Rights holders also complained of a lack of transparency in the issuance of stickers, a process managed primarily by the State Enterprise "Intelzahyst." (Note: "Intelzahyst," which is subordinate to SDIP, reviews applications for hologram stickers and then distributes them to rights holders, who themselves apply the stickers to their products. End Note.) Berezhny argued that some pirates had managed to acquire hologram stickers by posing as small, little-known recording companies based abroad.

¶7. (SBU) As a solution, Berezhny proposed that "Intelzahyst" make application information publicly available on its website, and give rights holders an opportunity to file complaints on suspect applications. Chebotaryov noted GOU concerns that recording companies could use such a policy to disrupt the operations of legitimate competitors, but said that posting information on the internet should be possible. Andruschakevych, Deputy Director of "Intelzahyst," privately cautioned Econoff that posting such information on the internet could be problematic due to privacy laws. Andruschakevych had previously made clear to a meeting of the European Business Association on February 11 that "Intelzahyst" would not be liable for its decisions on issuing stickers, as such liability should fall to the GOU directly.

Enforcement

¶8. (U) There was a lengthy discussion of the need to

improve enforcement measures. Rights holders called for increased inspections of all optical disc sales, and specifically for increased attention to discs containing hologram stickers, claiming there appeared to be more counterfeit stickers appearing on the market. Lebid reiterated the Ministry of Interior's long-standing position that the hologram sticker program remains an effective enforcement tool, as law enforcement benefits from some ex-officio authorities to seize optical discs bearing no sticker. Indeed, said Lebid, the majority of pirated optical discs on the market were without stickers, rather than with counterfeit stickers.

¶9. (U) Industry reps also called on law enforcement to investigate the sources of counterfeit stickers. Lebid urged rights holders to formally address the Ministry of Interior with any examples of counterfeit stickers, and promised to properly investigate every such case. Rights holders and GOU officials seemed to agree that counterfeit production was based abroad, mostly in Turkey and China, making investigations by the GOU more difficult.

Comment: Practical Steps to Improvement

¶10. (SBU) Although some disagreement remains, industry and government appear to broadly concur on the need to improve the hologram sticker program. The GOU agreed to most of industry's suggestions regarding technical improvements to the sticker, the issuance process, and enforcement. Post was somewhat concerned by industry's uncompromising position, as stated by Berezhny, however, that "unless ALL [of industry's] proposals are implemented, the hologram sticker system in Ukraine should be abolished." As many pirated products in Ukraine continue to sell without any hologram sticker, the hologram sticker program remains a valuable tool in aiding the work of law enforcement. Post

will continue to urge the GOU to take practical steps to improve the system as we believe this is the best method of aiding IPR enforcement, as opposed to eliminating holograms.

TAYLOR